IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

SETH PERLMAN,	)	
	)	
Plaintiff,	)	**8:04CV108**
	)	
v.	)	
	)	
CITY OF OMAHA,	)	**ORDER**
	)	
Defendant.	)	
	)	

This matter is before the court on plaintiff's motion to designate an expert witness out of time and for leave to conduct certain depositions (#53). Defendant filed a response in objection (#54).

a. Expert Witnesses. Plaintiff's deadline for serving expert witness disclosures expired on March 15, 2005, and plaintiff has not shown good cause for reopening the deadline at this late date.

b. Deposition of Sgt. Bobby Polk. Defendant does not object to plaintiff deposing Sgt. Polk if Sgt. Polk is in town and available for deposition. I find that plaintiff should be given leave to depose Sgt. Bobby Polk, said deposition to be completed by **February 15, 2006.**

c. Reconvening the Deposition of Thomas Marfisi. Plaintiff deposed Mr. Marfisi on September 27, 2005. Rule 30(a)(2)(B) of the Federal Rules of Civil Procedure requires court approval for a second deposition of a person in a case. Leave is to be granted "to the extent consistent with the principles stated in Rule 26(b)(2)." Fed. R. Civ. P. 30(a)(2). Rule 26(b)(2) permits the court to limit discovery that is "unreasonably cumulative or duplicative," obtainable from another source, or more burdensome than beneficial. *See* Fed. R. Civ. P.

26(b)(2)(i) & (iii). Rule 26(b)(2)(ii) also empowers the court to limit discovery where the "party seeking discovery has had ample opportunity by discovery in the action to obtain the information sought." In this instance, the plaintiff has not shown good cause for re-deposing Mr. Marfisi and he will not be allowed to do so.

IT IS ORDERED that plaintiff's Motion (#53) is granted in part, and denied in part, as follows:

1.   Plaintiff is given leave to depose Sgt. Bobby Polk, said deposition to be completed on or before February 15, 2006.

2.   The motion is denied in all other respects.

DATED December 30, 2005.

> **BY THE COURT:**
>
> **s/ F.A. Gossett**
> **United States Magistrate Judge**

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